

1 UNITED STATES DISTRICT COURT
 2 DISTRICT OF NEVADA

3 KIM BLANDINO,

Case No. 3:20-cv-00191-APG-WGC

4 Plaintiff

ORDER

5 v.

6 DREW CROSS,

7 Defendants

8
 9 This is a pro se civil rights action. When plaintiff Kim Blandino filed his complaint in this
 10 case, he was instructed to immediately file written notification of any change of address, including
 11 in situations such as moving to a different institution or being released on parole. ECF No. 2. On
 12 February 1, 2021, the court ordered Blandino to confirm his address with the court as it appeared
 13 that he no longer was living at the address on file with the court, which is the address for the Clark
 14 County Detention Center (CCDC). ECF No. 12. In that order, the court noted that pursuant to
 15 Nevada Local Rule of Practice IA 3-1, a “pro se party must immediately file with the court written
 16 notification of any change of mailing address, email address, telephone number, or facsimile
 17 number. The notification must include proof of service on each opposing party or the party’s
 18 attorney. Failure to comply with this rule may result in the dismissal of the action, entry of default
 19 judgment, or other sanctions as deemed appropriate by the court.” *Id.*

20 In response to that February 1, 2021 order, Blandino has not provided the court with a new
 21 mailing address. He acknowledges that he is now on house arrest rather than living at the CCDC
 22 facility located at 330 South Casino Center Blvd in Las Vegas, but he states that he is still in the
 23 “custody” of CCDC and that the court therefore should order Sheriff Joe Lombardo or people
 24 employed at CCDC to manage and deliver to him his mail. ECF No. 14. Blandino has provided
 25 no explanation for why he cannot provide a legal mailing address for where he is currently living,
 26 a post office box address, or another address to receive his mail. Under these circumstances,
 27 regardless of whether Blandino is legally considered to be in “custody,” I will not order anyone to
 28

1 serve as Blandino's mail manager and deliver mail to him.¹

2 Blandino asks the court to take judicial notice of various matters. ECF No. 16. "Judicial
3 notice" is a term of legal art, and it does not mean that a litigant simply wants to tell a court
4 something or wants a court to accept the truth of a claim or allegation. Federal Rule of Evidence
5 201 permits the court to take judicial notice of an adjudicative fact that is "not subject to reasonable
6 dispute" because it is either "generally known within the trial court's territorial jurisdiction" or
7 "can be accurately and readily determined from sources whose accuracy cannot reasonably be
8 questioned." Fed. R. Evid. 201(b)(1), (2); *accord U.S. v. Chapel*, 41 F.3d 1338, 1342 (9th Cir.
9 1994). For example, a party could ask the court to take judicial notice that Christmas Day in 2019
10 fell on a Wednesday. I take judicial notice that Blandino filed a complaint in 2:20-cv-1337-GMN-
11 NJK. However, Blandino has not requested judicial notice of any other matters that are directly
12 relevant to the issues currently before the court in his motions and that may be the subject of
13 judicial notice. I therefore deny any other motions for judicial notice.

14 The February 1, 2021 order required Blandino to file an application to proceed in *forma*
15 *pauperis* or pay the full filing fee of \$400 within 30 days from the date of that order. ECF No. 12.
16 It appears that Blandino is seeking an extension of time to do so because he wishes to consolidate
17 this case with 2:20-cv-1337-GMN-NJK. Under Rule 42(a) of the Federal Rules of Civil
18 Procedure, if actions before the court involve a common question of law or fact, the court may
19 consolidate the actions. If the court determines that common questions are present it must then
20 balance the savings of time and effort that consolidation will produce against any inconvenience,
21 delay, confusion, or prejudice that may result. *Huene v. United States*, 743 F.2d 703, 704 (9th Cir.
22 1984). Whether actions should be consolidated under Rule 42(a) is a matter within the trial court's
23 discretion. *Investors Research Co. v. U.S. Dist. Ct. for the Cent. Dist. of Cal.*, 877 F.2d 777 (9th
24 Cir. 1989). Rule 42 does not permit the court to consolidate actions merely because they have
25 common parties. Because Blandino's complaints in the two cases do not have common questions

26
27 ¹ Furthermore, I advise Blandino that, under these circumstances, if he insists on
28 designating a mailing address knowing that it is likely that he will not receive his mail, this will
not be sufficient to excuse any failure by him to comply with and respond to orders from this court.

1 of law or fact, consolidation is not appropriate. I will not consolidate the two cases.

2 Furthermore, Blandino filed his complaint in this action many months ago and still has not
3 paid the filing fee or provided evidence that he is entitled to *in forma pauperis* status. He may not
4 proceed in this action unless and until he does so. Therefore, if Blandino does not comply with
5 the court's order to pay the filing fee or file an application to proceed *in forma pauperis* by March
6 3, 2021, I will dismiss this action. **The court will not take any further action in this case unless
7 and until Blandino timely complies with this requirement.**

8 I therefore order that, to the extent Blandino is moving for an extension of time to meet
9 court deadlines in this case (ECF No. 15), the motion is denied.

10 I further order that Blandino must either: (1) file a fully complete application to proceed *in*
11 *forma pauperis* or (2) pay the full filing fee of \$400 by March 3, 2021, and this case will be subject
12 to dismissal without prejudice if he fails to timely comply with this order.

13 I further order that the motion for an order requiring Joe Lombardo or persons at CCDC to
14 manage and deliver Blandino's mail while he is on house arrest (ECF No. 14) is denied.

15 I further order that I take judicial notice that Plaintiff initiated an action in 2:20-cv-1337-
16 GMN-NJK.

17 I further order that any remaining requests for judicial notice (ECF No. 16) are denied.

18 I further order that, to the extent Blandino is moving to consolidate this case with 2:20-cv-
19 1337-GMN-NJK and is moving for any order from me concerning that case, such motions are
20 denied.

21 I further order that any remaining motions in ECF Nos. 13, 14, and 15 are denied without
22 prejudice. The court will not take any further action in this case unless and until Blandino timely
23 complies with the requirements concerning fee payment.

24 DATED THIS 12th day of February, 2021.

25 

26 UNITED STATES DISTRICT JUDGE
27
28